

Battle Creek City Planning Commission

Staff report for the November 17, 2010 meeting

To: Planning Commissioners

From: Christine M. Hilton, AICP, Planning Supervisor
Planning and Community Development Department

Subject: Petition S-06-10, a Special Use Permit request for 24 College Street,
Parcel #5240-00-072-0

Summary

A petition from Mr. Roger & Mrs. Shirley Knapp requesting a Special Use Permit to allow for an Adult Foster Care Small Group Facility at 24 College Street, Parcel # 5240-00-072-0, which is zoned "R-3B Multiple Family Residential District" as permitted under the Planning and Zoning Code, Chapter 1290, Sec. 1290.01(b)(7).

Background/Property Information

The subject site is located on the east side of College Street, mid-block between Glenwood and Calhoun Streets. The parcel is .5 acre in size with 165' frontage on College Street and 165' rear frontage along a public alley. City assessing records indicate the structure was constructed in 1860 as a single family home, the use of which has continued until approximately the year 2000 when the structure was vacated. The home has been vacant for at least ten years, and has been the subject of various code enforcement actions by the City including vacant/abandoned buildings, dangerous buildings, and property maintenance.

Though the zoning of the property is R-3B Multi-Family Residential, the 3,100 s.f. structure has not been divided into apartments and the structure still contains only one dwelling unit with seven bedrooms and five bathrooms.

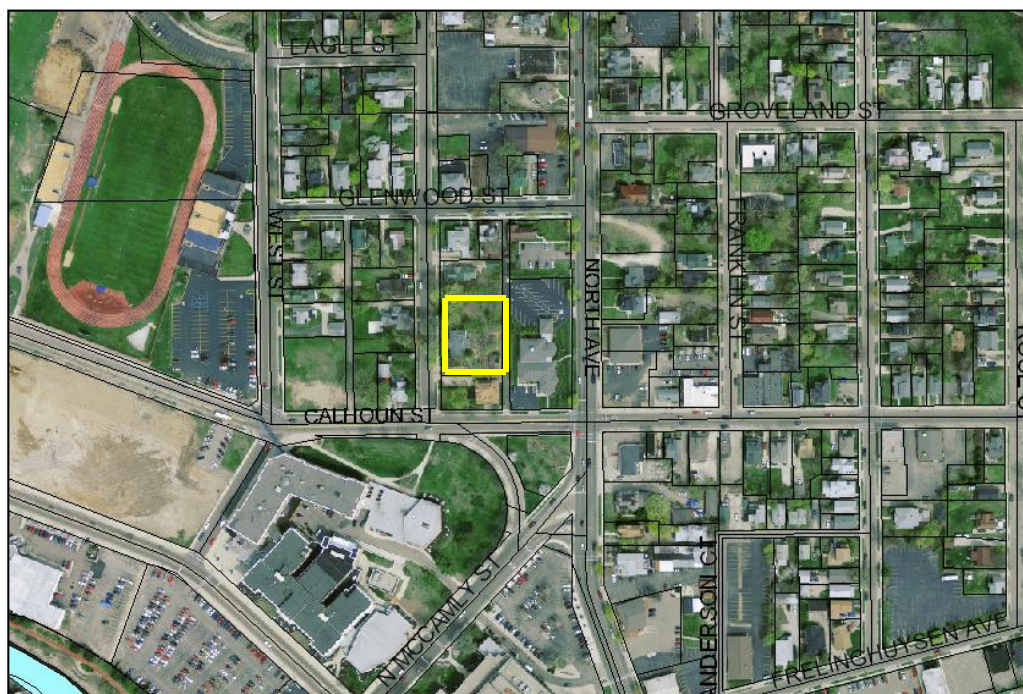
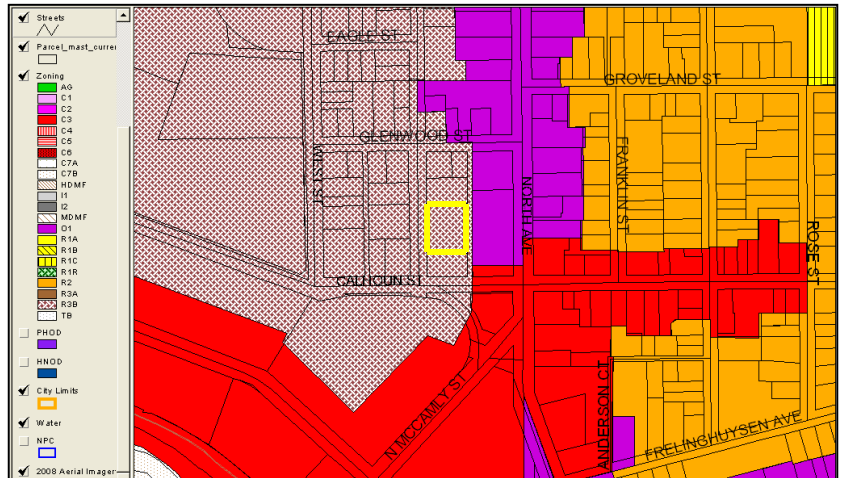


Surrounding Land Uses / Zoning

The surrounding residential neighborhood to the north and west of this property are also zoned R-3B Multi-Family Residential and contain a mix of single family homes and single family homes that have been converted into multiple units. The subject parcel is buffered to the north by an existing tree line.

Parcels east of the subject property front on North Avenue and are zoned O-1 Office District. These properties are used for a mix of office and residential uses, and though separated by the alley, are still visible from the subject property.

South of the neighborhood is Battle Creek Central High School, and their athletic campus is located to the west.



Proposed Scope of Project

The petitioners, property owners Mr. Roger & Mrs. Shirley Knapp, are seeking the special use permit to allow for an Adult Foster Care Small Group Facility at this property.

Foster care facilities are regulated by the Michigan Department of Human Services and defined as “the provision of supervision, personal care, and protection in addition to room and board for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.” An adult foster care facility is further defined as “a governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care family homes for adults (18 or over) that are aged, mentally ill, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care.” The Adult Foster Care license has specific regulations that the provider must adhere to, and are regulated, monitored, and enforced by the State of Michigan.

The petitioners have submitted their application to the State for a Small Group Home license, and in anticipation of the required approvals have incorporated as Bailey Manor, Inc. An Adult Foster Care Small Group Facility, per State licensing, would allow up to twelve residential clients. The petition for a special use permit however indicates that they will provide services for up to ten residents that will be supervised by a live-in manager and two part-time staff. The petitioners do not and will not live at this property, however they are proposing to staff the facility with a live-in manager as they would not be able to provide direct care to residents or oversee the daily operation of the facility because they personally do not meet the qualifications established by the State.

In order to accommodate the group foster care facility, only few structural changes will be required and the home will still be classified as single dwelling unit. However, due to State licensing requirements, the change in use will require significant improvements to the structure including fire suppression throughout the structure and an additional means of egress from the second floor. The petitioners have submitted floor plans that will be provided for review at the meeting. The property owners have already started making improvements to the structure such as new windows and bathroom updates to accommodate barrier free accessibility.

Applicable Ordinance Provisions

As previously stated, the zoning of this property is R-3B Multi-Family Residential. In this zoning district, the following uses are permitted by right and require no additional zoning review: multiple dwelling units, apartment hotels, rooming or boarding houses, and tourist homes or bed and breakfast houses. For this zoning district, there are no density standard requirements that dictate the number of allowable dwelling units based on parcel or structure size, and therefore, this structure would be able to be divided into numerous apartments.

In regards to the request for an adult foster care facility, the Michigan Zoning Enabling Act of 2006 specifically states that state licensed residential facilities, which is defined as those providing residency and services to six or fewer residents, shall be considered a residential use of property for the purposes of zoning and permitted use in all residential zones. The statute further states that they shall not be subject to a special use or conditional use permit or any other procedure different from those required for other dwellings of similar density in the same zoning district.

Small Group foster care facilities, those providing residency and services from seven to twelve persons are subject to local zoning control. The City of Battle Creek Zoning Ordinance, Chapter 1290 Special Land Uses, specifically 1290.01(b)(7) allows for “*State licensed residential facilities for more than 6 residents, community residential facilities or group homes*”. This section of the ordinance requires a fifty foot front yard setback and the petitioners have submitted a dimensional variance application to the Zoning Board of Appeals for their December meeting.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Enquirer on October 28, 2010 and notices of the public hearing were also sent by regular mail on October 26, 2010 to forty owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has not received any questions or comments relative to this request.

Neighborhood Outreach

The petitioner will be attending the Neighborhood Planning Council #4 meeting on Wednesday, November 17, 2010, the night of the Planning Commission meeting. The petitioner has met with the chair of the NPC, Mr. David Nielson, and has stated he seemed to indicate that it was likely that the preference of the NPC would be to keep the structure a single family home. Mr. Nielson will be attending the Planning Commission meeting.

Basis For Determination

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allows the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the

persons or agencies responsible for the development shall be able to adequately provide such services.

(f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

(g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

(h) The use will be consistent with the intent and purpose of this Zoning Code.

Analysis and Recommendation

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff further finds the request consistent with the general standards listed in 1290.04, as outlined herein:

(a) The use of this structure as a Adult Foster Care Small Group Home will be harmonious with and in accordance with the general objectives of the City of Battle Creek Master Plan as a vision of the plan (pg. 3-3) holds that accommodating a diversity of people and lifestyles is critical to the long term vibrancy and strength of the city, and that a variety of housing choices and living environments would strengthen the city over time. Additionally, the plan calls for well coordinated, high quality mental and physical health services be available to everyone (pg. 3-4).

The use of this structure as an Adult Foster Care Small Group Home will allow for the rehabilitation of this structure which is consistent with the master plan that encourages the coordination between the City and non-profits, developers, and property owners to stabilize housing conditions, and promote housing reinvestment and redevelopment to improve neighborhoods and also provide for diverse living opportunities (pg. 4-12). The plan targets this specific neighborhood for neighborhood revitalization activities including promoting housing rehabilitation (Figure 5-6, pg. 5-14).

(b) The proposed use will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood as the proposed use maintains the original residential use of the property and the structure will not be subdivided into multiple units which would change the essential character of the neighborhood due to the number of units that would be allowed.

(c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is compatible with surrounding zoning and residential land uses. Furthermore, the neighborhood is in close proximity to non-residential offices/services that are complementary to the proposed use of the property. Additionally, the permitted uses in the R-3B Multiple Family zoning district could be more intrusive and potentially detrimental to the neighborhood.

(d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as an existing vacant structure will become occupied and improvements made to the structure that are necessary to fulfill requirements of State licensing.

- (e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use.
- (f) There will be no City expenses associated with the maintenance and improvements to the building, and therefore, the use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) Because of the residential nature of the use there will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors. Any noise associated with the use will be the result of typical activities found in a residential neighborhood.
- (h) The use will be consistent with the intent and purpose of this Zoning Code in that the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance. Additionally, it will be required to be in compliance with all State licensing/certificate regulations concerning the proposed use.

Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-06-10 that would allow an Adult Foster Care Small Group Home, on Parcel #5240-00-072-0 with the following conditions:

Project Specific Conditions:

- 1. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, Inspections Department, and Zoning Board of Appeals prior to Certificate of Occupancy.**
- 2. The approval of the special use permit is based upon the contents of the submitted application, including but not limited to the occupancy of the structure by a full time live-in manager, number of residential clients (10), and the target population of senior citizens. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.**

Administrative Conditions:

- 3. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.**

4. **Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.**

The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:

- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

Attachments

The following information is attached and made part of this Staff report.

1. Special Use Permit petition Form and Supplemental Information (Petition #S-06-10)